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ORIGINAL FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

December 7, 1994

Mr. William Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

RM-8540

Re: In the Matter of US WEST Access Billing
Requirements for Joint Service Provision
Petition for Rulemaking

Dear Mr. Caton:

Enclosed herewith for filing are the original and four (4) copies of MCI Telecommunications Corporation's Opposition regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Opposition furnished for such purpose and remit same to the bearer.

Sincerely,

Christopher Bennett
Analyst

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ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
)
US WEST)
Access Billing Requirements)
for Joint Service Provision)
)
_____)

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FEDERAL COMMUNICATIONS COMMISSION
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OPPOSITION

MCI respectfully asks the Commission to reject US WEST petition for a rulemaking.¹ MCI believes US WEST request does not justify the cost of such a proceeding.

Background

US WEST asks the Commission to open a rulemaking proceeding on its proposal to eliminate the single bill requirement for certain of its meet point billing contracts with other local exchange carriers (LECs).² US WEST contends that the circumstances favoring the need for the single bill requirement have changed since it was first ordered in 1988.³ US WEST offers three specific claims to support its petition for a rulemaking: (1) the public interest is not served by uneconomic billing arrangements;

¹ In the Matter of Access Billing Requirements for Joint Service Provision, RM _____, filed November 1, 1994, (US WEST Rulemaking Petition).

² Id., p. 1.

³ Id., pp. 4-7.

(2) circumstances have changed since the Commission first adopted its single bill requirement; and (3) IXC's will not be harmed by allowing LEC's to use the multiple bill option.⁴ In support of its claim that circumstances have changed, US WEST argues three justifications for eliminating the single bill requirement: (1) the Commission waiver of local transport for small LEC's creates two different rate structures; (2) implementation of a LATA level billing management enhancement makes it unnecessary; and (3) competitive tandem switching will allow multiple bills so US WEST should have the same flexibility for meet point billing.⁵

US WEST request does not justify a rulemaking

US WEST petition does not include any reasoned measure of the public benefit a rulemaking will provide. To the contrary, if its claims about changed circumstances are any indication, the public benefits of a rulemaking are illusory. Addressing each claim is illustrative.

In the case of US WEST "local transport" argument, the Commission did not find that different rate structures prevent meeting the single bill requirement. Instead, it recognized the difficulty of the situation and found that

⁴ Id., pp. 4-8.

⁵ Id., pp. 4-7.

additional time might be needed to meet the requirement.⁶

The Commission granted the LECs, including US WEST, a waiver to provide extra time. Of all the LECs involved, US WEST alone, now claims that it still can not meet the single bill requirement.

Regarding LATA level billing, instead of complying with the Meet Point Billing Order,⁷ US WEST apparently decided to develop a capability that does not meet all of the requirements. MCI suggests that US WEST should have petitioned for a waiver before developing LATA level billing, instead of waiting until after it was developed -- and until US WEST had run out of time -- to determine if LATA level billing is a substitute for the single bill requirement.

Finally, competitive tandem switching is not relevant to the Meet Point Billing Order requirements. All of the LECs had the flexibility of multiple billing before the Meet Point Billing Order. US WEST has had six years to implement single billing. US WEST's own petition cites competitive

⁶ See in the Matter of Petitions for Waiver of Transport Rate Restructure and Pricing Requirements, 9 FCC Rcd 796, p. 809, para. 34 (Transport Order). The Commission states "[w]e recognize that maintaining a single-billing arrangement in circumstances where parties to the meet-point billing arrangements maintain different rate structures may be unreasonable given current time constraints."

⁷ See In the Matter of Access Billing Requirements for Joint Service Provision, Order, 65 Rad. Reg. (P&F) 2d 650 (Meet Point Billing Order).

tandem switching as being a relatively new Expanded Interconnection issue -- not one that is six years old.⁸ Perhaps there will be a single bill requirement for competitive tandem switching at some point in the future -- however, that is not relevant to whether US WEST has complied with the Commissions 1988 Meet Point Billing Order. Instead of supporting US WEST's petition, these three claims indicate US WEST can not provide a persuasive showing of any public benefits that would justify a rulemaking.

Based on the facts of this situation, it is unreasonable to initiate a rulemaking for the interest of a single party -- since the waiver process aptly meets individual petitioner needs. The Commission must expend resources in the rulemaking process. Nothing US WEST argues justifies the consumption of those Commission resources.

US WEST is trying to place its shareholder interest above the public interest

US WEST's petition indicates it is not satisfied with the profitability of implementing the single bill requirement. It does not state that direct cost will exceed revenue -- the only situation that would make the single bill requirement uneconomic. Doubtless, US WEST does not

⁸ US WEST Rulemaking Petition, supra note 1, p. 6. The page cites to "See In the Matter of Expanded Interconnection with Local Telephone Company Facilities Transport, Phase II, Third report and Order, 9 FCC Rcd. 2718 (1994)."

quibble with the Commission in situations where it earns above average returns. US WEST should either show the cost that prove that the single bill requirement is uneconomic or comply with the Commission's rules.

As a monopoly common carrier, US WEST is guaranteed it will earn a reasonable return for providing regulated services -- however US WEST has a duty to comply with the Commission's rules and regulations.⁹ The Commission has heard all of the parties and has determined what is in the best interest of the public. A lone¹⁰ self-interested party like US WEST should not be allowed to shirk its lawful duty.

The public benefits decided in the Meet Point Billing Order remain appropriate

The Commission required the LECs to "provide single bills for meet-point billing because it enhances billing

⁹ See Communications Act of 1934, 47 U.S.C. Section 201(a) (The Act). In particular part The Act states "[i]t shall be the duty of every common carrier engaged interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes."

¹⁰ US WEST is the only party filing for a waiver of the Single Bill Requirement. None one has filed in support of US WEST waiver petition.

accuracy and customer convenience."¹¹ US WEST seeks to undercut the Commission's ruling by arguing that it has implemented a billing capability that is almost as good as the single bill requirement.¹² If US WEST proposition sets a precedent, every Commission decision is open to being second guessed by any party with a proposal that serves its own interest -- and is almost as good as the Commission's decision that was made in the public's interest.

In making this claim, US WEST ignores the fact that as recently as December 16, 1993, in the Transport Order, the Commission reiterated its original decision on meet point billing.¹³ Perhaps, if US WEST had applied the same effort, to the single bill requirement, that it has apparently invested in developing LATA level billing -- it would have fully implemented the single bill requirement.¹⁴ Then, US WEST would not be burdening the Commission with this

¹¹ Transport Order, supra note 6, pp. 809-810, para. 34.

¹² US WEST Rulemaking Petition, supra note 1, p. 7. US WEST states, in reference to the Commission's concerns about multiple billing, "...these concerns have been largely mitigated by the implementation of LATA level billing...".

¹³ Transport Order, supra note 6, pp. 809 - 810, para. 34.

¹⁴ See Meet Point Billing Order, supra note 7. In particular part it states "[m]any of the smaller LECs state that they would gladly use a single billing option, and that they understand and agree with the Commission's preference for single rather than multiple bills. They note an apparent determination on the part of various coordinating carriers, however, to use multiple billing." (footnotes omitted).

rulemaking request.

Interexchange Carriers will be harmed by US WEST proposal

As MCI has argued in other opposition comments, US WEST's claim that "IXCs will not be harmed" is inaccurate.¹⁵ In fact US WEST admits that its own proposal does not fully address the concerns the Commission has voiced about meet point multiple billing.¹⁶

Conclusion

For the reasons stated above, and in MCI's petitions opposing US WEST request for waiver, MCI urges the Commission to reject US WEST petition for rulemaking.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

BY: Christopher Bennett

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Dated: December 7, 1994

¹⁵ See In the Matter of [MCI Petition to Reject] US WEST Access Billing Requirements for Joint Service Provision Waiver, CC Docket No. 87 - 579, filed November 30, 1994 (MCI Petition).

¹⁶ Id. supra note 12.

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on December 7, 1994.

A handwritten signature in cursive script, appearing to read "Chris Bennett", is written over a horizontal line.

Christopher Bennett
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CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that copies of the foregoing Opposition were sent via first class mail, postage paid, to the following on this 7th day of December 1994.

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